

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement the  
California Renewables Portfolio Standard  
Program.

Rulemaking 04-04-026  
(Filed April 22, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING  
ON MOTION FOR RECONSIDERATION**

The Administrative Law Judge's (ALJ) Ruling on Motions for Leave to File under Seal and for Protective Orders (June 9, 2005), required Pacific Gas and Electric Company (PG&E) and Southern California Edison (SCE) to file and serve new versions of their Renewables Portfolio Standard (RPS) procurement plans to make public certain information that had previously been redacted. PG&E complied with the ruling on the required date of June 16, 2005.

SCE requested by e-mail on June 13, 2005 that it be given a 30-day extension of the June 16 deadline, in order to file a motion for reconsideration of the ruling. Treating this as an extension request pursuant to Rule 48(a) of the Rules of Practice and Procedure, the assigned ALJ on June 14, 2005 granted the request by e-mail, specifying that the extension would last until a ruling on the motion for reconsideration, which was to be filed not later than June 20, 2005. SCE filed its motion for reconsideration on June 20, 2005. Independent Energy Producers Association (IEP) filed a response to SCE's motion on June 27, 2005, in accordance with the schedule set by e-mail.

In its motion for reconsideration, SCE identified two contested aspects of the ALJ ruling:

1. The requirement that SCE make publicly available the information in the redacted last line of Table 2 in its Renewable Procurement Plan 2005-2014 (March 7, 2005); and
2. The requirement that SCE make publicly available the information in Figure 3 in its procurement plan.

SCE does not seek reconsideration of any other aspect of the ALJ ruling.

**1. Table 2**

As to Table 2, SCE explains that its Advice Letter (AL) 1876-E (March 8, 2005) publicly disclosed information about six contracts. The redacted sixth line in Table 2, however, refers to a contract different from the sixth contract in AL 1876-E. The redacted contract was not signed, although the other contracts in Table 2 were. In that circumstance, SCE is entitled to continue to redact the contract information in the last line in Table 2.<sup>1</sup>

**2. Figure 3**

SCE contends that, contrary to the premise of the ALJ ruling, the information about its procurement projections that is presented in Figure 3 has not merely been compiled from already publicly available data. As a partial alternative to this argument, SCE claims that any publicly available information underlying Figure 3 is widely scattered, difficult to find, and not put together in the same format as Figure 3. Thus, SCE asserts, Figure 3 independently deserves protection as a trade secret. SCE also states that, in any event, the aggregation of

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<sup>1</sup> As IEP points out, it would be useful for SCE to revise the information in its procurement plan to match the information in AL 1876-E.

the categories of “wind repowers/expansions” and “future renewables” allowed by the ALJ ruling will not eliminate the problems it has identified.

SCE’s concerns about Figure 3 can be resolved consistent with the principle adopted in the ALJ’s June 9 ruling that roughly equal disclosure of information in their RPS procurement plans is required of all three utilities. In Figure 3, SCE presents in graphical form information analogous to the information PG&E presents in tabular form in its Table 2. In Table 2, revised in accordance with the ALJ ruling, PG&E provides its retail sales, RPS generation as percentage of previous year’s sales (in percentage and gigawatt hours),<sup>2</sup> and incremental procurement targets.

SCE has set forth its percentage targets for each year in Figure 3. Its projected retail sales for years through 2014 were made publicly available in R.04-04-003, though these projections are not part of Figure 3. SCE’s Annual Procurement Target curve, disclosed in its Revised Motion for Confidential Treatment of Unredacted Version of its Renewable Procurement Plan pursuant to Pub. Util. Code §§ 583 and 454.5(g) and Protective Order (May 12, 2005), is analogous to PG&E’s Table 2, Line 1, “renewable energy,” and should not be redacted.

SCE, in the revisions to Figure 3 submitted with its Revised Motion, made available the information “under the curve” in Figure 3 for 2004 and 2005. This information had been disclosed in SCE’s Compliance Report (March 1, 2005). In keeping with the ALJ ruling’s conclusion that the utilities need not reveal “dynamics of . . . procurement strategy” and “year-by-year procurement” in

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<sup>2</sup> This is essentially PG&E’s Annual Procurement Target.

these procurement plans, SCE may continue to redact the information under the curve for years after 2005.<sup>3</sup> It is therefore not necessary to address SCE alternative trade secret argument.

**IT IS RULED that:**

1. SCE's extension of time to comply with the Administrative Law Judge's (ALJ's) Ruling on Motions for Leave to File under Seal and for Protective Orders (June 9, 2005) is terminated.

2. SCE's Motion for Reconsideration of Administrative Law Judge's June 9, 2005 Ruling on Motions for Leave to File under Seal and Protective Orders is granted to the following extent:

- The last line of Table 2 in SCE's Renewable Procurement Plan 2005-2014 (March 7, 2005) may remain redacted; and
- The information under the curve for years 2006-2014 in Figure 3 in SCE's Renewable Procurement Plan 2005-2014 may remain redacted.

3. SCE shall, not later than July 6, 2005, file and serve a revised version of its Renewable Procurement Plan 2005-2014 (March 7, 2005), to make publicly available the following previously redacted information, information provided by Edison in its Revised Motion for Confidential Treatment of Unredacted Version of its Renewable Procurement Plan pursuant to Pub. Util. Code §§ 583 and 454.5(g) and Protective Order (May 12, 2005), information required by the ALJ's June 9, 2005 ruling, and information required by this ruling:

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<sup>3</sup> As SCE observed in its Revised Motion, as each year's compliance report is filed, the past year's information under the curve in Figure 3 would be publicly available.

- Table 7, all columns in line labeled “Total” for each of the four cases;
- Table 8, all columns in line labeled “Total” for each of the four cases;
- Table 2, with the exception of the last line;
- The Annual Procurement Target curve and information under the curve for 2004 and 2005 in Figure 3;
- Pages 15 and 16;
- A new line for Tables 7 and 8, “2010 total,” which sums the information presented for earlier years.

4. SCE shall, not later than July 6, 2005, file an amended ex parte notice and attached written material for its March 24, 2005 ex parte meeting that makes publicly available the previously redacted line labeled “2014” on page 10 of its “RPS Procurement Plan” attachment, as required by the ALJ’s June 9, 2005 ruling.

Dated June 30, 2005, at San Francisco, California.

/s/ ANNE E. SIMON  
Anne E. Simon  
Administrative Law Judge

## **CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling on Motion for Reconsideration on all parties of record in this proceeding or their attorneys of record.

Dated June 30, 2005, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

## **N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.